

SECOND REGULAR SESSION

SENATE BILL NO. 739

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3134L.011

AN ACT

To repeal sections 23.080, 23.140, 23.150, 23.153, 23.160, 23.170, 23.180, 23.190, 23.200, and 33.810, RSMo, and to enact in lieu thereof nine new sections relating to the general assembly, with an effective date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 23.080, 23.140, 23.150, 23.153, 23.160, 23.170, 23.180, 23.190, 23.200, and 33.810, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 23.080, 23.135, 23.140, 23.150, 23.160, 23.170, 23.180, 23.190, and 33.810, to read as follows:

23.080. 1. The committee may regularly employ and fix the compensation of a director of research who is competent to assume administration of the necessary activities of the committee under the direction of the committee. The committee may also employ other attorneys, research assistants, clerks and other persons as it deems necessary within the limits of the appropriation made therefor to carry out the provisions of this chapter or to provide assistance for the members and committees of the general assembly. Except for those employees assigned to the **legislative budget office or the** oversight division, all employees of the committee shall be under the supervision of the director of research, and he **or she** shall, as directed by the committee, assign and supervise all work projects of those employees and keep all necessary personnel records for those employees and others of the committee if so directed. **All employees of the legislative budget office shall be under the supervision of the director of the legislative budget office, and he or she shall, as directed by the subcommittee, assign and supervise all work projects of the employees of that office.** All employees of the oversight division shall be

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 under the supervision of the director of the oversight division, and he or she
18 shall, as directed by the subcommittee, assign and supervise all work projects of
19 the employees of that division.

20 2. The committee may provide necessary legal reports and other
21 publications to be kept in the library of the committee and pay for same out of
22 any appropriations made to the committee. The secretary of state and the revisor
23 of statutes shall furnish the librarian, without charge, the number of Missouri
24 statutes and session laws as is desired by the committee to enable it to exchange
25 the statutes and session laws for those of other states.

23.135. 1. The committee on legislative research shall organize
2 a "Legislative Budget Office" to prepare fiscal notes as required by
3 section 23.140 and to prepare and present budgetary projections and
4 budget alternatives to members of the general assembly. The
5 committee may form a subcommittee of not less than six members to
6 provide direct supervision of the personnel and practices of the
7 legislative budget office. The subcommittee shall consist of one-half of
8 the members appointed by the chair from the house which he or she
9 represents and one-half of the members appointed by the vice chair of
10 the house which he or she represents, and shall include the chair of the
11 senate appropriations committee and the chair of the house budget
12 committee.

13 2. (1) The committee shall appoint and fix the compensation of
14 the director of the legislative budget office, who shall be qualified by
15 training and experience to handle economic and budgetary issues. The
16 director of the legislative budget office may employ personnel
17 necessary to carry out the duties of such office within the limits of any
18 appropriation made for such purpose. Persons employed to work in the
19 legislative budget office shall be appointed without regard to political
20 affiliation and shall be professional persons possessing a wide
21 knowledge and demonstrated expertise in economics and public policy
22 and administration. The director of the legislative budget office may
23 also contract with public and private entities, within the limits of
24 appropriation, for analysis and study of current economic and
25 budgetary issues.

26 (2) The term of office of the director shall be four years
27 beginning on January first of the year following the election of the
28 governor. An individual serving as director at the expiration of a term

29 **may continue to serve until a successor is appointed. The individual**
30 **-serving as director on August 28, 2008, shall serve as director for the**
31 **first term following such date.**

32 **(3) The director may be removed by either house by resolution.**

33 **3. Beginning in calendar year 2009, and at least once every year**
34 **thereafter, the legislative budget office shall provide to members of the**
35 **general assembly a cash basis financial projection. The projection shall**
36 **be developed by staff of the legislative budget office and may be similar**
37 **in format to the general revenue summary of the executive branch. The**
38 **director of the legislative budget office is hereby authorized to prepare**
39 **and provide other reports containing budgetary projections to members**
40 **of the general assembly as he or she deems appropriate. Any chair or**
41 **minority member ranking by seniority of any standing committee of**
42 **either house, joint committee, or interim committee may request**
43 **budgetary projections, including estimating the fiscal effects of the**
44 **governor's budget proposals.**

23.140. 1. Legislation, with the exception of appropriation bills,
2 introduced into either house of the general assembly shall[, before being acted
3 upon,] be submitted to the [oversight division] **legislative budget office** of the
4 committee on legislative research for the preparation of a fiscal note. The staff
5 of the [oversight division] **legislative budget office** shall prepare a fiscal note,
6 examining the items contained in subsection 2 [and such additional items as may
7 be provided either by joint rule of the house and senate or by resolution adopted
8 by the committee or the oversight subcommittee].

9 **2. The fiscal note shall [state] include, but not be limited to, the**
10 **following:**

11 **(1) The [cost] fiscal impact** of the proposed legislation [to] **on** the state
12 **for a minimum of** the next two fiscal years;

13 **(2) Whether or not the proposed legislation will establish a program or**
14 **agency that will duplicate an existing program or agency;**

15 **(3) Whether or not [there] the proposed legislation is required by a**
16 **federal mandate for the program or agency;**

17 **(4) Whether or not the proposed [program or agency] legislation will**
18 **have significant direct fiscal impact upon any political subdivision of the state;**

19 **(5) Whether or not any new physical facilities will be required; and**

20 **(6) Whether or not the proposed legislation will have an economic impact**

21 on small businesses. For the purpose of this subdivision "small business" means
22 a corporation, partnership, sole proprietorship or other business entity, including
23 its affiliates, that:

24 (a) Is independently owned and operated; and

25 (b) Employs fifty or fewer full-time employees.

26 3. The fiscal note for a bill shall accompany the bill throughout its course
27 of passage **upon being reported by a committee with jurisdiction over**
28 **matters contained in the bill.** [No member of the general assembly, lobbyist
29 or persons other than oversight division staff members shall participate in the
30 preparation of any fiscal note unless the communication is in writing, with a
31 duplicate to be filed with the fiscal note or unless requested for information by
32 the fiscal analyst preparing the note. Violations of this provision shall be
33 reported to the chairman of the legislative research committee and subject the
34 fiscal note and proposed bill to subcommittee review. Once a fiscal note has been
35 signed and approved by the director of the oversight division, the note shall not
36 be changed or revised without prior approval of the chairman of the legislative
37 research committee, except to reflect changes made in the bill it accompanies, or
38 to correct patent typographical, clerical or drafting errors that do not involve
39 changes of substance, nor shall substitution be made therefor. Appeals to revise,
40 change or to substitute a fiscal note shall be made in writing by a member of the
41 general assembly to the chairman of the legislative research committee and a
42 hearing before the committee or subcommittee shall be granted as soon as
43 possible. Any member of the general assembly, upon presentation of new or
44 additional material, may, within three legislative days after the hearing on the
45 request to revise, change or substitute a fiscal note, request one rehearing before
46 the full committee to further consider the requested change. The subcommittee,
47 if satisfied that new or additional material has been presented, may recommend
48 such rehearing to the full committee, and the rehearing shall be held as soon as
49 possible thereafter.

50 4. The director of the division, hereinafter provided for, or the director's
51 designees, shall seek information and advice from the affected department,
52 division or agency of state government and shall call upon the research staffs of
53 the house of representatives and of the senate, and upon the staffs of the house
54 and senate appropriations committees for assistance in carrying out fiscal notes
55 and auditing functions and duties, during the interim, and each staff shall supply
56 such information or advice as it may possess in response to the inquiry. The

57 state auditor shall, upon request, cooperate and provide assistance in the conduct
58 of audits and the preparation of reports made in connection therewith.]

23.150. 1. The committee on legislative research shall organize an
2 oversight division to [prepare fiscal notes and to] conduct [management audits
3 and] program [audits] **evaluations** of state agencies. The committee may form
4 a subcommittee of not less than six members to provide direct supervision of the
5 personnel and practices of the division. The subcommittee shall consist of
6 one-half of the members appointed by the [chairman] **chair** from the house which
7 he **or she** represents and one-half of the members appointed by the vice
8 [chairman] **chair** from the house which he **or she** represents.

9 2. Within the limits of the appropriations made for this division, the
10 committee shall employ a director of the oversight division and other personnel
11 as it deems necessary. The director shall be qualified by training and experience
12 to conduct such [audits] **evaluations**, and he **or she** shall be directly responsible
13 for those activities. The director of the oversight division, with the consent of the
14 joint committee, may employ personnel necessary to carry out the duties
15 prescribed in this chapter. Persons employed to work in the oversight division
16 shall be professional persons possessing a wide knowledge and demonstrated
17 expertise in governmental programming and financial planning, in conducting
18 program review evaluations and analytic studies, and of federal, state, and local
19 government budgetary processes, laws and regulations of the state of
20 Missouri. [Office space, furniture and equipment formerly assigned to the
21 committee on state fiscal affairs, and appropriations made therefor, shall be
22 transferred to the committee on legislative research.]

23.160. 1. [As used in this chapter, the term "management audit" means
2 a postaudit which determines, with regard to the purpose, functions, and duties
3 of an audited agency:

4 (1) Whether the agency is managing and utilizing its resources in an
5 economical and efficient manner; and

6 (2) Which identifies causes of inefficiencies or uneconomical practices
7 including inadequacies in the use and management of information systems,
8 internal and administrative procedures, organizational structure, use of
9 resources, allocation of personnel, and purchasing policies.

10 2.] As used in this chapter, the term "program [audit"] **evaluation**"
11 means a [postaudit] **study** which determines and evaluates program performance
12 according to program objectives, responsibilities, and duties as set forth by

13 statute or regulation. Program **[audits] evaluations**, in accordance with
14 generally accepted program evaluation standards, shall determine:

15 (1) Whether the program is being performed and administered as
16 authorized or required by law, and whether this action conforms with statutory
17 intent;

18 (2) Whether the objectives and intended benefits are being achieved, and
19 whether **[efficiently and effectively] the absence of such achievements**
20 **suggest the need for corrective or additional legislation;**

21 (3) Benefits derived from any program in relation to the expenditures
22 made therefor; and

23 (4) Whether the program duplicates, overlaps, or conflicts with any other
24 state program.

25 [A program audit may include determinations within the scope of a management
26 audit to the extent necessary or appropriate to the conduct of a particular
27 program audit.]

28 **[3.] 2.** As used in this chapter, the term "resources" includes
29 appropriated funds, federal funds, grants, and personnel, and also includes
30 equipment and space, whether assigned, owned or leased.

31 **[4.] 3.** As used in this chapter, the term "agency" includes each
32 department and office within the executive branch of government and each
33 identifiable unit thereof, including institutions of higher learning, and each
34 identifiable unit of the legislative and judicial branches of government.

23.170. 1. The oversight division of the committee on legislative research
2 shall, pursuant to a duly adopted concurrent resolution of the general assembly,
3 or pursuant to a resolution adopted by the committee on legislative research,
4 conduct **[management audits and] program [audits] evaluations** of agencies as
5 directed by any such resolution.

6 2. The staff of any agency subject to a **[management or] program [audit]**
7 **evaluation** shall fully cooperate with the staff of the oversight division and shall
8 provide all necessary information and assistance for such an **[audit] evaluation**.
9 All records of an agency, unless otherwise expressly declared by law to be
10 confidential, may be inspected by the oversight division staff while conducting the
11 **[audit] evaluation**, and the agency subject to the **[audit] evaluation** shall
12 afford the oversight division staff with ample opportunity to observe agency
13 operations.

14 3. All **[audits] evaluations** shall be completed within one year unless an

15 extension is authorized by the committee, but progress reports shall be made to
16 the committee at least monthly. [The subcommittee supervising the oversight
17 division shall meet monthly to review progress reports, hear requests for changes
18 in fiscal notes, and provide supervision for the oversight division staff.]

19 4. Any member of the general assembly and any committee of either house
20 of the general assembly may submit requests for [audits] **program evaluations**
21 to the committee on legislative research, and any agency may request an [audit]
22 **evaluation** of its operations.

23 5. **The director of the division, or the director's designees, shall**
24 **seek information and advice from the affected department, division or**
25 **agency of state government and shall call upon the research staffs of**
26 **the house of representatives and of the senate, and upon the staffs of**
27 **the house and senate appropriations committees for assistance in**
28 **carrying out program evaluations, during the interim, and each staff**
29 **shall supply such information or advice as it may possess in response**
30 **to the inquiry. The state auditor shall, upon request, cooperate and**
31 **provide assistance in the conduct of evaluations and the preparation**
32 **of reports made in connection therewith.**

23.180. The committee may:

2 (1) Subpoena and examine witnesses by subpoena issued under the hand
3 of the speaker of the house or the president pro tem of the senate and may
4 require the appearance of any person and the production of any paper or
5 document in the same manner;

6 (2) Cause witnesses appearing before the committee or [the] **its** staff [of
7 the division] to give testimony under oath;

8 (3) Require that testimony given or a record of the proceedings of any
9 hearing be recorded by an official court reporter or other competent person, under
10 oath, in writing or by electronic, magnetic, or mechanical sound or video recording
11 devices. Any such transcript or record, when certified by the reporter or recorder,
12 shall be prima facie a correct statement of the testimony or proceedings.

23.190. 1. In making [audits] **program evaluations** the division shall
2 make recommendations and suggestions, in writing, to the personnel of the
3 agency being [audited] **evaluated**. Such personnel shall be given an opportunity
4 to respond, in writing, to those recommendations and suggestions. Thereafter,
5 as soon as practicable after completion of the [audit] **evaluation**, the committee
6 shall issue a public report of the [audit] **evaluation**. The report shall contain

7 recommendations for changes in practices and policies as well as
8 recommendations for changes in statutes and regulations, and shall contain the
9 response of the agency involved. Each report shall be a public record and shall
10 be signed by the committee [chairman] **chair**. Each report shall be presented to
11 the governor and the agency involved. Copies may be made available to members
12 of the general assembly and to the general public. The committee may charge a
13 fee to recover publication costs for copies made available to the general public.

14 2. One year after completion of each [audit] **evaluation**, the oversight
15 division shall review the operations of the agency [audited] **evaluated** to
16 determine whether or not there has been substantial compliance with the
17 recommendations contained in the report, and if not, a further review shall be
18 conducted at the end of another year. In each instance a further report shall be
19 made and distributed in the same manner as an initial report is made and
20 distributed.

 33.810. When any department or agency is selected for a
2 performance-based review pursuant to the provisions of sections 33.800 to 33.810,
3 an analysis team shall be formed to consist of a budget analyst of the senate
4 appropriations committee selected by the chairman of the senate appropriations
5 committee, a budget analyst of the house budget committee selected by the
6 chairman of the house budget committee, a budget analyst who is employed by
7 the office of administration designated by the commissioner of administration,
8 and an employee of the department or agency subject to the performance-based
9 review selected by the chief administrative officer of that department or
10 agency. Upon request of the chairmen of the legislative committees, the
11 **legislative budget office and the** oversight division of the joint committee on
12 legislative research shall assist the analysis team and provide such services as
13 may be required. Members of the team shall receive no additional compensation
14 for their services, but may be reimbursed for their actual and necessary expenses
15 connected with the performance of their duties out of the joint legislative
16 contingent fund. The team shall perform such functions, analysis and other
17 duties as are specified in the performance-based review procedures established
18 pursuant to the provisions of section 33.800. The team shall begin the
19 performance-based review no sooner than the final approval of the appropriations
20 bills by the governor and complete the review no later than December thirty-first
21 of the same year.

[23.153. 1. As part of the preparation of any fiscal note for

2 any proposed piece of legislation, the staff member of the oversight
3 division assigned to prepare that note shall maintain a log, which
4 shall be a public record as defined in chapter 610, RSMo. That log
5 shall contain a record of any contact initiated by any other person
6 who either inquires regarding the content of the fiscal note or who
7 attempts to influence the preparation of the fiscal note. The log
8 shall contain, at a minimum, the name and position of the person
9 initiating the contact, the time and date of the contact, the number
10 of the fiscal note and the number of the proposed piece of
11 legislation, and a narrative summary of the comments made by the
12 person who initiated the contact.

13 2. Violation of the provisions of this section is a class A
14 misdemeanor.]

[23.200. The staff of the committee on legislative research
2 shall prepare a transfer-revision bill to be submitted to the
3 ninetieth general assembly to revise the statutes so as to reflect the
4 changes made by or pursuant to this act; except that, the
5 committee on legislative research shall use fully the provisions of
6 section 3.060, RSMo, where such provisions will suffice. At such
7 time as all statutory revision changes required pursuant to this act
8 have gone into effect the revisor of statutes may prepare legislation
9 to repeal this section.]

Section B. The repeal and reenactment of section 23.140 of section A of
2 this act shall become effective on July 1, 2009.

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